

PUBLIC HEARING--February 17, 1965

Appeal #8042 Melvyn Kaufman, Robert Kaufman and Carl A. Morse, appellants.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Messrs. Davis and Harps dissenting, the following Order was entered on February 17, 1965:

ORDERED:

That the appeal for a variance from the use provisions of the R-5-C District to permit grocery store, selling food to tenants on the premises at 2400 - 16th Street, N. W., lot 903, square 2571, be denied.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's request is for a variance from the provisions of paragraph 3105.42 (e) of the Zoning Regulations which states "the center of the principal entrance of such apartment house is more than one-quarter mile walking distance from the nearest principal business street frontage of any business street previously established and operating in a commercial or industrial district."

(2) This appeal was heard by the Board on January 13, 1965. Thereafter, the Board advised appellant that it had deferred action to give him an opportunity to present further argument on the variation aspect of the law, the Board finding from the facts and arguments presented at the January hearing that it had no alternative except to enter an order denying the appeal. The appeal was then scheduled as a preliminary matter at the February 17, 1965 meeting.

(3) Upon questioning by the Board, appellant stated that the hardship does not relate to the building itself but to the location.

(4) The zoning map shows considerable land zoned C-M-2 on Kalorama Road; some of which is adjacent to the rear of the subject building. The principal entrance of the apartment house is about 300 feet from this commercial district boundary and within 450 feet of the nearest commercial street by going straight through the building and out the rear. The same C-M-2 district can be reached by external means by walking north on 16th Street then west on Kalorama Road a distance of 850 feet or by going south on 16th Street, west on Crescent Place and north on 17th Street for a distance of about 950 feet.

(5) Appellant's exhibit #3 which is a plat showing the location of the property and the distance from such property to the nearest grocery store established in a commercial district. Such facility, which is located at 17th and Euclid Streets, is more than one-quarter mile from the site proceeding from the main entrance of the building north on 16th Street then east on Euclid Street, being 1487 feet from the site.

(6) The appellants contend that the commercial development that is within a quarter mile is not the type that provides service uses for the subject site.

(7) Appellant states that there is a differential in grade and topographically the land rises as you proceed northward from the site along 16th Street. As you go down Kalorama Road there is a fall in the grade so that this involves walking uphill and then downhill to get to the commercial facilities. Since residents of the apartment house will be primarily senior and elderly people this condition will constitute a hardship.

(8) Appellant's exhibit #5 which is a floor plan showing location of the facility requested. The facility occupies approximately 743 square feet of floor area on the first floor.

(9) There was one letter filed stating that the owner of the Dorchester House would protest the appeal at the hearing. However, no one was present at the hearing in opposition.

OPINION:

It is the opinion of the Board that a significant amount of land well within a quarter of a mile of the principal entrance of the apartment house is zoned and developed for commercial purposes.

It is also the opinion of the Board that the Zoning Regulations do not authorize the Board to evaluate the nature or adequacy of available commercial development to serve the needs of the residents of the subject apartment building.

It is the further opinion of the Board that appellant did not establish the statutory requirement of a condition involving the land itself or the building itself which would permit a use variance to be granted. Appellant's case rested on the distance from the building to the nearest commercially zoned area but this has nothing to do with the land or the building.